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MONTANA LEGISLATIVE HISTORY

Chapter 672 19 89

Bill H _____ S 410 Original bill & history ✓ C

H. Committee on Taxation			S. Committee on Taxation		
Hearing Date(s)	Mar 30	✓ C	Hearing Date(s)	Feb 28	✓ C
	Apr 02	✓ C		Mar 09	✓ C
		C			C
		C			C
Date Out	Apr 10	✓ C		Mar 09	✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

SENATE BILL NO. 410

INTRODUCED BY BECK, WILLIAMS, MCLANE, STORY, CAMPBELL, HOFFMAN, VAN VALKENBURG, THOMAS, ELLISON, MAZUREK, GIACOMETTO, HAMMOND, KELLER, D. BROWN

IN THE SENATE

FEBRUARY 13, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
MARCH 10, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
MARCH 11, 1989	PRINTING REPORT.
MARCH 13, 1989	SECOND READING, DO PASS.
MARCH 14, 1989	ENGROSSING REPORT.
MARCH 15, 1989	THIRD READING, PASSED. AYES, 44; NOES, 3.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

MARCH 16, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
APRIL 10, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
APRIL 11, 1989	SECOND READING, CONCURRED IN AS AMENDED.
APRIL 13, 1989	THIRD READING, CONCURRED IN. AYES, 100; NOES, 0.
	RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 15, 1989 — RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS CONCURRED IN.

APRIL 18, 1989 — THIRD READING, AMENDMENTS CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

Senate BILL NO. 410

INTRODUCED BY Buck, Miller-McRae, Story, Caplan, Hoffman, Wilkins, Thomas, Mangan, Grimes, Hammond, Keller, Dave Brown

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE TAXATION OF METAL MINES; CLARIFYING THE VALUE AT WHICH GROSS PROCEEDS AND METAL MINES LICENSE TAXES ARE LEVIED; REVISING THE ALLOCATION FORMULA OF THE METAL MINES LICENSE TAX; INCLUDING THE RESOURCE INDEMNITY TRUST FUND AND CERTAIN UNITS OF LOCAL GOVERNMENT IN WHICH A MINE IS LOCATED IN THE ALLOCATION OF THE METAL MINES LICENSE TAX; CHANGING THE TAX REPORT FILING REQUIREMENT FOR THE LICENSE TAX ON METAL MINES AND THE RESOURCE INDEMNITY TRUST TAX FROM QUARTERLY TO ANNUALLY; INCREASING THE PENALTY PROVISIONS; EXEMPTING METAL MINES FROM THE RESOURCE INDEMNITY TRUST TAX; AMENDING SECTIONS 15-23-801, 15-37-102 THROUGH 15-37-106, 15-37-108, 15-37-117, 15-38-105 THROUGH 15-38-107, AND 15-38-202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-23-801, MCA, is amended to read:

"15-23-801. Definitions. As used in this part, the following definitions apply:

(1) "Agreement not at arm's length" means an agreement between parties where the sales price does not represent market value.

(2) "Department" means the department of revenue.

(3) "Gross proceeds" or "gross metal yield" or "gross value of product" means the ~~revenue~~ receipts realized from the extraction and sale of metals~~, determined by multiplying the quantity produced by the merchantable value~~ or concentrate containing metals.

~~(4) "Market value" means the exchange value of a property in a competitive market.~~

~~(5)~~(4) "Merchantable value" means the ~~average market value~~ receipts of all salable metals produced or extracted in a county over a 12-month period. If the extracted ores are milled, smelted, or reduced by the taxpayer, the merchantable value in the county in which they are extracted ~~shall be~~ is the ~~average market value of~~ receipts received for these metals after ~~this~~ processing."

Section 2. Section 15-37-102, MCA, is amended to read:

"15-37-102. Gross value of metal mine yield -- computation. The "~~quarterly~~ annual reporting date", as used in this part, means the last day of the calendar ~~quarter~~ year. The "~~quarterly~~ annual gross value of product", as used in this part, means the ~~market value of~~ receipts received from all merchantable metals or concentrate containing metals or precious and semiprecious gems and stones extracted or produced each calendar ~~quarter~~ year from any

INTRODUCED BILL
SB 410

mine or mining property in the state or recovered from the smelting, milling, reduction, or treatment in any manner of ores extracted from ~~any such~~ the mine or mining property or from tailings resulting from the smelting, reduction, or treatment of ~~any such~~ the ores. ~~Whenever the ores require smelting, reduction, or treatment to ascertain the metal contents of such ores, the quarterly gross value of the product thereof shall be determined by taking the market value of all merchantable metals or mineral products extracted or recovered thereby as shown by the gross smelter returns of such metals or mineral product in dollars and cents without any deductions for costs of smelting, reduction, or treatment or otherwise, based upon the average quotations of the price of such metals or mineral products in the city of New York, as evidenced by some established authority or market report, giving the market reports during the calendar quarter for which a report is being made. Should there be no quotation covering any particular product, the department of revenue shall fix the value of such gross product or such portion thereof in such a manner as may seem equitable.~~"

Section 3. Section 15-37-103, MCA, is amended to read:

"**15-37-103. Rate of tax.** The annual license tax to be paid by ~~such~~ a person engaged in or carrying on the business of working or operating any mine or mining property in this

state from which gold, silver, copper, lead, or any other metal or metals or precious or semiprecious gems or stones are produced shall be an amount computed on the gross value of product which may have been derived by ~~such~~ the person from ~~such~~ mining business, work, or operation within this state during the calendar year immediately preceding, at the following rates:

Gross Value of Product	Rate of Tax (percentage of gross value)
first $250,000	0%
more than $250,000 and ~~not more than $500,000~~	1.65% of the increment ~~.5% of the increment~~
~~more than $500,000 and not more than $1,000,000~~	~~1% of the increment~~
~~more than $1,000,000~~	~~1.5% of the increment~~"

Section 4. Section 15-37-104, MCA, is amended to read:

"**15-37-104. Mine operator's statement of gross value -- reports and sampling.** (1) Every person engaged in or carrying on the business of working or operating any mine or mining property in this state from which gold, silver, copper, lead, or any other metal or metals, precious or semiprecious gems or stones are produced must, not later than ~~60 days following the quarterly reporting date~~ March 31 of each ~~quarter~~ year when engaged in or carrying on any ~~such~~ mining business, work, or operation, make out a statement of

the gross value of product from all mines and mining properties worked or operated by ~~such~~ the person during the calendar ~~quarter~~ year immediately preceding. If good cause is shown, the department may grant a reasonable extension of the time for filing statements. The statement shall be in the form prescribed by the department of revenue and shall show the following:

(a) the name, address, and telephone number of the owner, lessee, or operator of the mine or mining property;

(b) the mine's location by county and legal description;

(c) the number of tons of ore, concentrate, or other mineral products or deposits extracted from the mine or mining property during the period covered by the statement;

(d) the name and location of the smelter, mill, or reduction works to which ~~such~~ the ore or concentrate has been shipped or sold during the period covered by the statement and ~~such~~ other information as the department may require;

(e) the gross yield of ~~such~~ the ores, concentrates, mineral products, or deposits in constituents of commercial value, ~~that is to say,~~ such as the number of ounces of gold or silver, pounds of copper, lead, or zinc, or other commercially valuable constituents of ~~said~~ the ores, concentrates, or mineral products or deposits, measured by

standard units of measurement, during the period covered by the statement;

(f) the ~~quarterly~~ annual gross value of product in dollars and cents.

(2) This section applies regardless of the location of any smelter, mill, or reduction works to which the ore or concentrate is shipped.

(3) Any sampling, testing, or assaying made necessary to comply with this section must be completed within this state and prior to any mixture of the ore or concentrate to be assayed with ore or concentrate from any other mine or mining property.

(4) If the ~~quarterly~~ annual statement of gross value described ~~herein~~ in this section is not filed with the department ~~within 60 days~~ by March 31 following the calendar ~~quarter ending~~ yearend, a penalty shall be assessed. The penalty shall be the greater of $25 or ~~2%~~ 10% of the tax ~~that would be~~ due under this part ~~if collected quarterly~~. If good cause is shown, the department may waive the penalty."

Section 5. Section 15-37-105, MCA, is amended to read:

"15-37-105. **Computation and payment of tax.** (1) The tax due under this part is computed according to 15-37-103 and is due and payable on or before March ~~1~~ 31 of each year for the products produced in the preceding calendar year. The tax due under this part becomes delinquent as of midnight on

March ~~1~~ 31 of the year immediately following the production year. If good cause is shown, the department may grant a reasonable extension of time for payment of the tax. During the period of any extension granted, the tax due bears interest at a rate of 1% a month or any part thereof.

(2) If any ~~such~~ person has sold or otherwise disposed of any of ~~its~~ the mine's products at a price substantially below the true market price of ~~such~~ the product at the time and place of ~~such~~ sale or disposal, then the department shall compute the gross value of ~~such~~ the portion of ~~said~~ the mine's product ~~so~~ sold or disposed of substantially below the market price. ~~as aforesaid, which~~ The gross value shall be based upon the quotations of the price of ~~such~~ the mine's product in New York City at the time ~~such~~ the portion of the product was ~~so~~ sold or otherwise disposed of as evidenced by some established authority or market report, such as the Engineering and Mining Journal of New York, or some other standard publication, giving the market reports for the year covered by ~~such~~ the statement. ~~Should~~ If there ~~be~~ is no quotation covering any particular product, then the department shall fix the value of ~~such~~ the gross product or ~~such~~ portion ~~thereof as shall have been~~ of the gross product that was sold or otherwise disposed of at a price substantially below the true market price at the time and place of ~~such~~ sale or disposal in ~~such~~ a manner as may seem

to be equitable."

Section 6. Section 15-37-106, MCA, is amended to read:

"15-37-106. Procedure in case of failure to file statements. If any person shall fail, refuse, or neglect to make and file ~~all~~ the required ~~quarterly statements~~ annual statement of gross yield for a production year on or before March ~~1~~ 31 of the year immediately following the production year, the department of revenue shall, immediately after ~~such~~ the time has expired, ascertain and determine as nearly as may be possible from any returns or reports filed with any state or county officer or board under any law of this state and from any other information which the department may be able to obtain the total gross value of product of ~~such~~ the person from ~~such~~ the business during the calendar year immediately preceding the year in which the license tax is to be paid. ~~and~~ The department shall make and file a statement showing the amount of ~~such~~ the gross value of product and shall ascertain, determine, compute, and assess the amount of the license taxes due from and to be paid by ~~such~~ the person and shall immediately give notice to ~~such~~ the person in the same manner as though ~~such~~ the statement had been filed within time. ~~and~~ The department shall proceed to collect ~~such~~ the license tax, ~~adding thereto and collecting therewith if the same is delinquent~~ along with the same penalty and interest as provided ~~for herein~~ for

other delinquencies."

Section 7. Section 15-37-108, MCA, is amended to read:

"15-37-108. Delinquent taxes -- penalty. All license taxes assessed under the provisions of this part shall become delinquent if not paid on or before midnight of March ~~1~~ 31 of the year immediately following the production year. The department shall add to the amount of delinquent metalliferous mines tax a penalty of ~~8%~~ 10%. The whole amount of license tax, together with penalty, shall bear interest at the rate of 1% per month or fraction thereof. Interest shall be computed from the date the tax becomes delinquent until it is paid. The department may waive the ~~8%~~ 10% penalty if it determines that a reasonable cause exists for failure to pay the tax on or before March ~~1~~ 31 of the year immediately following the production year."

Section 8. Section 15-37-117, MCA, is amended to read:

"15-37-117. Disposition of metalliferous mines license taxes. (1) Metalliferous mines license taxes collected under the provisions of this part are allocated as follows:

~~(1)~~(a) to the credit of the general fund of the state, ~~67%~~ 75% of total collections each year;

~~(2)~~(b) to the state special revenue fund to the credit of a hard-rock mining impact trust account, ~~33%~~ 8% of total collections each year~~.~~;

(c) to the state resource indemnity trust fund, 7% of

total collections each year;

(d) to the units of local government in which the mine is located, 10% of total collections each year, of which:

(i) 33 1/3% is allocated to the county;

(ii) 33 1/3% is allocated to the elementary school district in which the mine is located; and

(iii) 33 1/3% is allocated to the high school district in which the mine is located.

(2) The department shall return to the local units of government in which metals are produced the tax collections allocated under subsection (1)(d)."

Section 9. Section 15-38-105, MCA, is amended to read:

"15-38-105. Report of gross yield from mines. A person who engages in or carries on the business of mining, extracting, or producing a mineral from any quartz vein or lode, placer claim, dump or tailings, or other place or source shall ~~make-out-a-quarterly~~ file an annual statement of gross yield of the mineral from each mine owned or worked by that person during the ~~quarter~~ calendar year. This ~~form shall~~ statement must be in the form prescribed by the department and ~~shall~~ must be signed by the person or the manager, superintendent, agent, president, or vice-president of the corporation, association, or partnership, if any, ~~and~~ who shall ~~be--delivered~~ deliver the statement to the department on or before ~~the-60th-day~~ March 31 following the

end of the calendar ~~quarter~~ year. The statement shall show the following:

(1) the name and address of the owner or lessee or operator of the mine;

(2) the description and location of the mine;

(3) the quantity of minerals extracted, produced, and treated or sold from the mine during the period covered by the statement;

(4) the amount and character of the mineral and the total yield of the mineral from the mine in constituents of commercial value;~~-that-is-to-say,~~ such as the number of ounces of gold or silver, pounds of copper or lead, tons of coal, barrels of petroleum or other crude or mineral oil, cubic feet of natural gas, or other commercially valuable constituents of the ores or mineral products or deposits yielded to the person engaged in mining measured by standard units of measurement;

(5) the gross yield or value in dollars and cents."

Section 10. Section 15-38-106, MCA, is amended to read:

"15-38-106. Payment of tax -- records -- collection of taxes -- refunds. (1) The tax imposed by this chapter shall be paid by each person to which the tax applies, on or before March ~~1~~ 31, on the value of product in the year preceding January 1 of the year in which the tax is paid. The tax shall be paid to the department at the time the

statement of yield for the ~~last-calendar-quarter~~ preceding calendar year is filed with the department.

(2) The department shall deposit the proceeds of the tax in the resource indemnity trust fund of the nonexpendable trust fund type. Every person to whom the tax applies shall keep records in accordance with 15-38-105, and the records are subject to inspection by the department upon reasonable notice during normal business hours.

(3) The department shall examine ~~each--of~~ the ~~four quarterly--statements~~ statement and compute the taxes. ~~thereon,-and-the~~ The amount computed by the department shall be the taxes imposed, assessed against, and payable by the taxpayer. If the tax found to be due is greater than the amount paid, the excess shall be paid by the taxpayer to the department within 30 days after written notice of the amount of deficiency is mailed by the department to the taxpayer. If the tax imposed is less than the amount paid, the difference must be applied as a tax credit against tax liability for subsequent years or refunded if requested by the taxpayer."

Section 11. Section 15-38-107, MCA, is amended to read:

"15-38-107. Procedure in case of failure to file statement. (1) If any person fails, refuses, or neglects to make and file a statement and return it within the time prescribed, the department shall immediately after ~~such~~ the

time has expired determine, as nearly as may be possible from any returns or reports filed with the state or from any other information which the department may be able to obtain, the gross yield of the mineral of ~~such~~ the person from ~~such~~ the business during the calendar ~~quarter~~ year immediately preceding the ~~quarter~~ year in which the statement is to be filed. ~~and~~ The department shall fix the amount of the tax ~~that would be~~ due to the state ~~if the tax were paid on a quarterly basis~~ from ~~such~~ the person for ~~such~~ the calendar ~~quarter~~ year and shall add to the amount of ~~such~~ the tax a penalty of $25 or ~~2%~~ 10%, whichever is greater.

(2) If any person fails, refuses, or neglects to pay the tax when due, the department shall immediately determine, as nearly as may be possible from any information which the department may be able to obtain, the total gross value of product of the person from the business during the year for which the tax is due. ~~and~~ The department shall fix the amount of tax due to the state and shall add to the amount a penalty of ~~8%~~ 10% plus interest at the rate of 1% a month or fraction thereof computed on the total amount of tax and penalty. Interest shall be computed from the date the tax was due to the date of payment.

(3) The department shall mail to the person failing to file ~~a quarterly~~ an annual statement or pay any tax a letter

setting forth the amount of tax, penalty, and interest due. The letter shall advise that if payment is not received, a warrant for distraint may be filed.

(4) Penalties may be waived by the department if reasonable cause for the failure and neglect to file the statement required by 15-38-105 or the failure to pay the tax required by 15-38-106 is provided to the department."

NEW SECTION. **Section 12.** Exemption from resource indemnity trust tax. (1) A person who has paid the license tax on a metal mine under the provisions of Title 15, chapter 37, part 1, is exempt from the resource indemnity trust tax.

(2) Notwithstanding the provisions of subsection (1), all reporting requirements under the resource indemnity trust tax remain in effect.

Section 13. Section 15-38-202, MCA, is amended to read:

"15-38-202. Investment of resource indemnity trust fund -- expenditure -- minimum balance. (1) All ~~moneys~~ money paid into the resource indemnity trust fund, including money payable into the fund under the provisions of 15-37-117, shall be invested at the discretion of the board of investments. All the net earnings accruing to the resource indemnity trust fund shall annually be added ~~thereto~~ to the trust fund until it has reached the sum of $10 million. Thereafter, only the net earnings may be appropriated and

expended until the fund reaches $100 million. Thereafter, all net earnings and all receipts shall be appropriated by the legislature and expended, provided that the balance in the fund may never be less than $100 million.

(2) At the beginning of each biennium, an amount not to exceed $175,000 is allocated from the interest income of the resource indemnity trust fund to the environmental contingency account pursuant to the conditions of 75-1-1101. The remainder of the interest income is allocated as follows:

(a) Beginning in fiscal year 1982, provided the amount in the resource indemnity trust fund is greater than $10 million, 30% of the interest income of the resource indemnity trust fund must be allocated to the water development state special revenue account created by 85-1-604.

(b) Beginning in fiscal year 1988, 12% of the interest income of the resource indemnity trust fund must be allocated to the hazardous waste/CERCLA special revenue account provided for in 75-10-621.

(c) Beginning in fiscal year 1990, 8% of the interest income from the resource indemnity trust fund must be allocated to the renewable resource development account provided for in Title 90, chapter 2.

(d) Beginning in fiscal year 1990, 46% of the interest

income from the resource indemnity trust fund must be allocated to the reclamation and development grants account provided for in 90-2-1104.

(e) Beginning in fiscal year 1990, 4% of the interest income of the resource indemnity trust fund must be allocated to the environmental quality protection fund provided for in 75-10-704.

(3) Any formal budget document prepared by the legislature or the executive branch that proposes to appropriate funds from the resource indemnity trust interest account other than as provided for by the allocations in subsection (2) must specify the amount of money from each allocation that is proposed to be diverted and the proposed use of the diverted funds. A formal budget document includes a printed and publicly distributed budget proposal or recommendation, an introduced bill, or a bill developed during the legislative appropriation process or otherwise during a legislative session."

NEW SECTION. **Section 14.** Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. **Section 15.** Codification instruction. [Section 12] is intended to be codified as an integral part of Title 15, chapter 38, part 1, and the provisions of Title

15, chapter 38, part 1, apply to [section 12].

NEW SECTION. **Section 16.** **Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. **Section 17.** **Effective date -- retroactive applicability.** [This act] is effective on passage and approval and applies retroactively, within the meaning of 1-2-109, to taxable years beginning after December 31, 1988.

-End-

HEARING ON SENATE BILL 410

Presentation and Opening Statement by Sponsor:

Senator Beck, District 24, sponsor, said the bill clarifies the value at which gross proceeds and metal mines license taxes are levied. The bill gives some predictability to the mining industry as to their taxes. The proceeds from the mining taxes will go the general fund, local government, and school districts. The bill makes taxation of metal mines more uniform, modernizes the tax laws, conforms to recent changes in diversity in the metal mining industry. One of the major provisions is the establishment of a flat rate of 1.65% on the gross value of the metals produced. It removes metal mines from the resource indemnity trust tax but increases the rate the industry pays to the metal mines license tax to compensate for any loss in revenue. The resource indemnity trust fund and local governments would be included in the proceeds from the increase in the metal mines license tax. It would clarify the language in the metal mines license tax to stipulate that taxes are paid on receipts received from the sale of metals or concentrates containing metal. This provision would ensure that mines are taxed on the value of their saleable product and not on the theoretical assayed value of their ore body. It would also allocate collections from both the gross proceeds and the metal mines taxes to the states general fund, units of local government, the hard rock mining impact trust account, and the resource indemnity trust fund. In addition to receiving the gross proceeds tax that they currently collect, units of local government, counties and school districts will receive 10% of the collections from the metal mines license tax. This should give local governments in those areas where metal mines operate more income to spend on immediate local service needs than is presently available. In addition, the state general fund would receive 75% of the income instead of the 67% it currently gets. This is a very important bill for the mining industry. This industry is one of the major economic factors in the state. Senator Beck urged the committee to give the bill favorable consideration.

List of Testifying Proponents and What Group they Represent:

Gary Langley, Executive Director, Montana Mining Association

Dennis Burr, Montana Taxpayers Association
Joe Dewey, General Manager, Stillwater Mining Company
Ward Shanahan, Chevron
Ray Tilman, Montana Resources, Butte
Mark Blair, ASARCO
Don Jenkins, Golden Sunlight Mine, Whitehall
John Fitzpatrick, Pegasus Gold Corporation

List of Testifying Opponents and What Group They Represent:

Don Peoples, Chief Executive Officer, Butte Silverbow
John Beaudry, Stillwater County
Terri Minnow, Montana Federation of Teachers and Montana Federation of State Employees
Don Hoffman, Department of Revenue

Testimony:

Gary Langley, Executive Director, Montana Mining Association, said the bill provides consistency in the state tax policy as it effects the metal mine industry. He said the industry has diversified in the last decade and the rules and regulations have grown in a topsy-turvy fashion. The metals industry price is set on the basis of the world market. There is a great need to define costs as much as possible and taxes are a part of those costs. He said consistency is a main factor which would allow mines to define their costs from a predictable tax base which, in turn, would encourage mining in Montana.

Dennis Burr, Montana Taxpayers Association, said he had done consultation work for the Mining Association prior to his association with the MTA. They wanted to simplify their tax system in a revenue neutral manner and that study is partly where this bill originated. The three taxes the bill deals with are gross proceeds, metal mines, and resource indemnity trust tax. In the past, there have been three different bases for the taxes, although the gross proceeds and metal mines are quite similar. The bill changes the base for gross proceeds and metal mines to gross receipts for selling products of the mines or gross value of products. Resource indemnity trust tax has always been more difficult because its a mine mouth tax. It means there has to be a dummy value set on the product as it comes out of the mine. The rules have been very difficult to interpret

on the RITT. This bill increases the metal mines tax and allocates part of the revenue to the RITT instead of imposing a RIT tax at all. According to his research, a rate of 1.5% on the metal mines tax applied to all metals without the sliding scale would produce sufficient revenue to cover what the metal mines tax previously raised. In addition, 9% of that revenue could be put in the RITT and there would be the same amount as had been previously raised on metals through the RIT tax. The industry has set the rate at 1.65% which they calculate to be revenue neutral. There are some other allocations but the main thrust of the bill is to establish a stable and easily determined base for each of the three taxes. It is essentially a revenue neutral method of straightening out this confusing tax problem.

Joe Dewey, General Manager, Stillwater Mining Company, said the bill streamlines the process, assures equitable administration of the process; it is predictable, and the miners are taxed on what they know they are receiving. The bill clarifies the differences between metal mines tax and the RITT and provides for annual versus quarterly reporting. He said currently they report quarterly and pay annually which adds to the work load for no good purpose. Mr. Dewey noted his company pays $1 million in the combined three taxes currently. He urged the committee to support the bill.

Ward Shanahan, representing Chevron, said he is appearing for one purpose. He pointed out one problem in the bill on page 6, line 13, which is the provision for the penalty on quarterly reporting. The penalty has been raised from 2% to 10%. On page 9, line 6, the penalty has been raised from 8% to 10% for failure to pay the delinquent tax. Further, on page 13, line 11, the penalty has been raised to 10% from 2% in case of failure to file a statement. He said he thinks the statement and the annual statement are one and the same but there is not a clear delineation. He felt that instead of a 14% penalty there may now be penalties totalling 30%. He felt the bill should be amended to reflect a total 14% penalty - 2% each for the statements and 10% for failure to pay the tax.

Ray Tilman, Montana Resources, Butte, said the confusing state of the law at present has been a continuing

problem for the mining industry and has resulted in litigation for several companies. He said SB 410 will clarify the base and the tax laws. He also supported the revenue neutral concept for the counties.

Mark Blair, ASARCO, Inc. troy mine, showed the committee two ounces of silver in coin form and in concentrate form. It takes two gallons of concentrate to produce the two ounces of silver and the taxing of the concentrate is disproportionate to the yield. He expressed support for the bill as he feels it will clarify and simplify the reporting, it will increase revenue to Lincoln County, and it will allow the marketplace to determine the value of the concentrate.

Don Jenkins, Golden Sunlight Mine, expressed support for the bill as it provides clarification and consistency. He said the companies would pay the same amount of tax as in the past with no impact on local government.

John Fitzpatrick, Pegasus Gold Corporation, said they have mines in Silverbow, Jefferson and Phillips Counties. He said there is a gap between what is paid for a concentrate and what its theoretical metal value is. Part of the purpose of the bill is to establish the tax base upon the receipts received. The allocation formula under current law has 67% of the metal mines tax goes to the general fund and 33% goes to the hard rock mine impact account as a guard against mine closures in the future. That provision was put into law in 1983 in the wake of the Anaconda shut-down and the concern about impacts of that closure on the local communities involved. Between 1989 and 1991 the total metal mines receipts will total somewhere between $16 and $18 million. That will net $5.5 to $6 million to the trust account. Currently, there is a balance of $1.7 million in that account. He felt that is a lot of money to be in a trust account and feared that if the balance is too big, the money will be used for general fund expenditures. Therefore, the allocation has been cut back to the level of the past -8%, which will give the account approximately $500,000 a year.

Opponents:

Don Peoples, Chief Executive Officer, Butte-Silverbow, said he understands the concerns of the mining companies. However, he said the revenue neutral provisions made him nervous and, in fact, he projected a negative

impact on Butte-Silverbow of up to $125,000 a year. He said supports the intent of the legislation but he wants to ensure there is no negative impact on schools and local governments. The companies, when they report the value of their product to the Department of Revenue, report it with various deductions. There is often a discrepancy between the figures reported and the determination by the Department of Revenue due to difficulties in interpretation of current law. However, if the DOR prevails and this bill passes in this form, Butte-Silverbow stands to be a loser. He submitted an amendment (Exhibit #2) which would clarify the process and further insure the revenue neutrality provision of the bill. He felt the rate would have to be raised to 1.75 to 1.77% to ensure the neutrality.

John Beaudry, County Administrator and Planning Director for Stillwater County, submitted a letter from the Board of County Commissioners in opposition to the bill (Exhibit #3). The opposition is based only on Section 8 of the bill and he submitted proposed amendments to address those concerns (Exhibit #4).

Terri Minnow, Montana Federation of Teachers and Montana Federation of State Employees, echoed the concerns expressed by Mr. Peoples. She urged adoption of the amendments to ensure the revenue neutrality of the bill.

Don Hoffman, Department of Revenue, submitted an amendment to the committee (Exhibit #5) which would clarify language with respect to people other than metal mines producers. The language at the end of page 10 includes oil and gas producers and the amendment would allow them to continue to file on a single form.

Questions From Committee Members:

Senator Gage felt some clarification is needed in new Section 12, sub (2), regarding filing of the indemnity trust return. He says it is ridiculous to have the metal mine people file the return if the money is already allocated from the license tax.

Don Hoffman responded agreed saying there does not need to be another report filed on the RITT and that should be addressed.

Senator Eck said the fiscal note does not indicate the bill is revenue neutral. She asked if anyone knew just what rate would truly make the bill revenue neutral.

Mr. Fitzpatrick said if you take the projected RITT collections and the projected metal mines tax and use the tax base proposed by the Department of Revenue, the base rate should be about 1.77% to 1.8%. At 1.65% there is a tax cut.

Senator Brown suggested Senator Beck get together with those people who suggested amendments to work a package which the committee can deal with in Executive Session.

Closing by Sponsor:

Senator Beck said predictability and stability is needed as was testified to during the hearing. It is very difficult for the companies to budget and plan for their taxes on a base that is constantly open to change and different interpretations. He said he is more than willing to work with the various groups on the amendments and would have no objection to raising the rate if that is what it takes to make the bill truly revenue neutral.

EXECUTIVE SESSION

DISPOSITION OF SENATE BILL 290

Discussion: None

Amendments and Votes: None

Recommendation and Vote:

Senator Harp MOVED that SB 290 be TABLED. The motion CARRIED with Senator Crippen voting no and Senators Mazurek, Severson, Walker and Eck absent.

DISPOSITION OF SENATE BILL 392

Discussion: Following motion to pass the bill (see Recommendation and Vote)

TAXATION COMMITTEE

51st LEGISLATIVE SESSION -- 1989 Date 2/28/89

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BROWN	X		
SENATOR BISHOP	X		
SENATOR CRIPPEN	X		
SENATOR ECK	X		
SENATOR GAGE	X		
SENATOR HAGER	X		
SENATOR HALLIGAN	X		
SENATOR HARP	X		
SENATOR MAZUREK	X		
SENATOR NORMAN	X		
SENATOR SEVERSON	X		
SENATOR WALKER	X		

Each day attach to minutes.

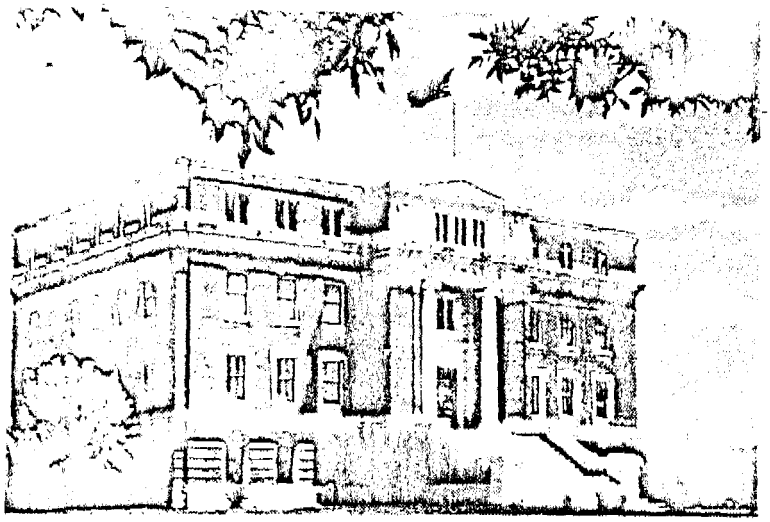
EXHIBIT NO.
DATE 2/38/1989
BILL NO. SB 410

SB 410
Proposed Amendments

1. Page 2
   Following: line 16
   Insert: (5) Receipts realized or receipts received means the gross value of metal production determined by multiplying the quantity produced by the quoted price for the metal produced and then subtracting basic treatment charges, contractual quantity deductions, price deductions, and impurity and moisture penalties. Deductions are not allowed either directly or indirectly as an offset to payments for the cost of transportation from the mine or mill to the smelter or refinery, demurrage, storage, interest, or any other miscellaneous cost relating to transporting the mineral product.

2. Page 2, line 24
   Following: metals
   Insert: as defined in 15-27-801 paragraph (5)

EXHIBIT NO. 3 pg 1
DATE 3/25/1989
BILL NO. SB410



COUNTY OF STILLWATER

State Of Montana

Columbus, Montana

February 27, 1989

Senator Bob Brown, Chairman
Senate Taxation Committee
State Capitol
Helena, Montana 59620

Dear Senator Brown:

Senate Bill 410 would have the most significant long term financial impact on Stillwater County of any of the bills we have reviewed during this session. The change in definition of gross proceeds could affect our taxable valuation and annual revenue. The bill proposes to allocate 10% of the metalliferous mines license tax to the County, elementary school district and high school district. However, this allocation is made at the expense of the hard rock-mining impact trust account. The 8% increase allocated to the general fund of the state and the 7% allocated to the state resource indemnity trust fund are also made at the expense of the hard rock mining impact trust account. This bill would result in a multi-million dollar loss to Stillwater County's hard-rock mining impact trust account.

The Montana Legislature enacted legislation to establish the hard rock mining impact trust accounts in 1983 with a 1985 effective date. The reasons for the impact trust accounts were to stabilize mill levies, retire bonded indebtedness and fund economic development efforts in the event of a significant reduction in work force or mine closure. The 1983 Legislature used sound judgement when the hard rock mining impact trust accounts were established to minimize the impact from the boom and bust cycles in the mining industry and avoid the problems experienced by Butte and Anaconda in the past. The mining industry and local governments agreed to this approach only six years ago and have established a cooperative working relationship during this time.

Senate Bill 410 would result in a major loss of revenue to the hard rock mining impact trust accounts as indicated in the fiscal note. This loss of revenue would leave local governments vulnerable to the impacts of mine closures and the financial burden of these impacts would then fall on others. The proposed disposition of metalliferous mines license taxes in Section 8

DATE 2/23/81

BILL NO. SB 410

Of this bill is short sighted, detracts from the public-private trust that was established in the 1981 and 1983 Hard Rock Mining Impact Legislation and will severely impact local governments.

We resent this attempt to leave Stillwater County and other local governments affected by mining to the same fate as Butte and Anaconda experienced with mine closures. We strongly encourage you to opposed SB 410 and fund the Hard Rock Mining Impact Trust accounts at their current levels.

Sincerely,
Board of County Commissioners

Earl R. Adams

Earl R. Adams, Chairman

Rick Young

Rick Young

Fred J. Weiler

Fred J. Weiler

cc: Senator Tom Beck
Stillwater Mining Company
Senator Doc McLane
Representative Vern Keller

SENATE TAXATION
EXHIBIT NO. 4
DATE 2/25/84
BILL NO. SB 410

Stillwater County

Proposed Amendment to Senate Bill 410

Section 8. Section 15-37-117, MCA, is amended to read:

"15-37-117. Disposition of metalliferous mines license taxes. (1) Metalliferous mines license taxes collected under the provisions of this part are allocated as follows:

(a) to the credit of the general fund of the state, 72% of total collections each year;

(b) to the state special revenue fund to the credit of the hard-rock mining impact trust account 15% of total collections each year;

(i) All interest earned on the hard rock mining impact trust account must be credited to the hard rock mining impact trust account.

(c) to the state resource indemnity trust fund, 7% of total collections each year;

(d) to the units of local government in which the mine is located, 6% of total collections each year, of which:

(i) 33 1/3% is allocated to the county;

(ii) 33 1/3% is allocated to the elementary school district in which the mine is located; and;

(iii) 33 1/3% is allocated to the high school district in which the mine is located.

(2) The department shall return to the local units of government in which metals are produced the tax collections allocated under subsection. (I) (d).

EXHIBIT NO. 5
DATE 2/25/89
BILL NO. SB 410

PROPOSED AMENDMENT TO SENATE BILL 410

Purpose: To limit the filing date extension for the Resource Indemnity Trust Tax to metals producers who need the additional 30 days to obtain information from the smelters in order to file an accurate tax return. This is the same amendment that was proposed for SB 3 which was the department's bill to change from quarterly filing to annual and extend the due date for metals producers.

Amendments: 1. Page 11, line 1.
Following: "year"
Insert: "by metals producers and on or before the 60th day following the end of the calendar year by all other mineral producers including producers of oil and gas.

DATE 2/28/89

COMMITTEE ON Taxation

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppo
WARD SHANAHAN	CHEVRON	SB410	x AMEND —	
[illegible] Beaudin	[illegible]	SB 410		
Earl Adams	" "	"		"
Ron Jenkins	Golden Sunlight Mines, Inc.	"	x	
Ray Talmen	Montana Resources	SB410	X	
[illegible]	[illegible]	SB410	x	
John Firebaugh	Pegasus Gold Corp. Helena	SB410	X	
Ted Doney	ASARCO	SB410	X	
Mark Blair	ASARCO	SB410	X	
Dennis Burr	Mont Taxpayers Assoc	SB410	x	
~~Don Henderson~~	~~Small Bus. Adm.~~			
Don Regier	Butte Silver Bow	SB410		X amend
Carol L. Ferguson	Hard Rock Mining Board	SB410		

Montana would not have a sales tax. He submitted a proposal for a massive gasoline tax which would be for gasoline only, not diesel or work fuel. He said a 25 cent a gallon gas tax would produce $100,000,000 in revenue for the state. There would be no exemptions. Senator Severson said the fuel is used by virtually everyone. It is necessary to tax where there is money and the ability to pay. He said the legislature could adopt the tax immediately and it go right into effect producing revenue with no delay. Senator Severson said it is an idea he has had for some time and he felt this was the time to present it to the committee for their consideration as a possible committee bill and alternative funding source.

EXECUTIVE SESSION

DISPOSITION OF SENATE BILL 410

Discussion:

Senator Beck, sponsor, said he had met with all the parties who asked for amendments and Exhibit #10 is the end result. Exhibit #11 indicates the impacts of the major changes.

Amendments and Votes:

Senator Harp MOVED to adopt the amendments as proposed in Exhibit #10.

Senator Gage asked to segregate amendment #8.

Senator Harp AMENDED HIS MOTION to reflect the segregation of amendment #8. The motion CARRIED unanimously.

Senator Gage MOVED to amend the bill on page 9, line 21 by changing 75% to 63% and line 25, by changing 7% to 14%.

Senator Gage explained the amount going into the RITT is being reduced by about 50% per current law as opposed to this law. If the amount going to general fund is reduced from 7% to 63% and the amount going to RITT is doubled there would still be more generated for the general fund than under current law and the RITT would be kept intact.

Senator Brown asked how much less goes into the general fund as a result of the amendment.

Senator Gage replied it would be about $500,000.

Senator Gage's motion CARRIED unanimously.

Recommendation and Vote:

Senator Harp MOVED SB 410 Do Pass As Amended. The motion CARRIED unanimously with Senator Crippen absent.

ADJOURNMENT

Adjournment At: 10:00 a.m.

Bob Brown

SENATOR BOB BROWN, Chairman

BB/jdr

MIN309.jdr

TAXATION COMMITTEE

51st LEGISLATIVE SESSION -- 1989 Date 3/7/89

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BROWN	X		
SENATOR BISHOP	X		
SENATOR CRIPPEN	X		
SENATOR ECK	X		
SENATOR GAGE	X		
SENATOR HAGER	X		
SENATOR HALLIGAN	X		
SENATOR HARP	X		
SENATOR MAZUREK	X		
SENATOR NORMAN	X		
SENATOR SEVERSON	X		
SENATOR WALKER	X		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

MR. PRESIDENT:

We, your committee on Taxation, having had under consideration SB 410 (first reading copy -- white), respectfully report that SB 410 be amended and as so amended do pass:

1. Title, line 12.
Strike: "AND THE RESOURCE INDEMNITY TRUST TAX"

2. Title, line 14.
Following: ";"
Insert: "ESTABLISHING A MINE DEVELOPMENT RESERVE ACCOUNT FOR COUNTY GOVERNMENTS AND LOCAL SCHOOL DISTRICTS;"

3. Title, line 16.
Strike: "15-38-105 THROUGH 15-38-107,"

4. Page 2.
Following: line 16
Insert: "(5) "Receipts received" means the monetary payment or refined metal received by the mining company from the metal trader, smelter, roaster, or refinery, determined by multiplying the quantity of metal received by the metal trader, smelter, roaster, or refinery by the quoted price for the metal and then subtracting basic treatment and refinery charges, quantity deductions, price deductions, interest and penalty metal, impurity, and moisture deductions as specified by contract between the mining company and the receiving metal trader, smelter, roaster, or refinery. Deductions are not allowed, either directly or indirectly or as an offset to payments, for the cost of transportation from the mine or mill to the smelter, roaster, or refinery. Insurance, storage, interest, or any other miscellaneous costs related to transporting the mineral product are considered transportation and are not deductible."

5. Page 2, line 22.
Following: "received"
Insert: ", as defined in 15-23-801,"

6. Page 4, line 11.
Strike: "1.65%"
Insert: "1.8%"

7. Page 6, lines 1 through 17
Strike: subsection (4) in its entirety

continued

8. Page 9, line 21.
Strike: "75%"
Insert: "63%"

9. Page 9, line 25.
Strike: "7%"
Insert: "14%"

10. Page 10, line 3.
Strike: "10%"
Insert: "15%"

11. Page 10, line 12 through page 14, line 7.
Strike: sections 9 through 11 in their entirety
Renumber: subsequent sections

12. Page 14, line 9.
Strike: "(1)"

13. Page 14, line 13 through 15.
Strike: subsection (2) in its entirety

14. Page 16.
Following: line 18
Insert: "NEW SECTION. Section 11. Mine development reserve account. (1) The governing body of a county receiving tax collections under 15-37-117(1)(d) may establish a mine development reserve account to be used to hold the collections. The governing body may hold money in the account for any time period deemed appropriate by the governing body. Money held in the account may not be considered as cash balance for the purpose of reducing mill levies.
(2) Money may be expended from the account for any purpose provided by law.
(3) Money in the account must be invested as provided by law. Interest and income from the investment of the mine development reserve account must be credited to the account.

NEW SECTION. Section 12. Mine development reserve account. (1) The governing body of a local school district receiving tax collections under 15-37-117(1)(d) may establish a mine development reserve account to be used to hold the collections. The governing body may hold money in the account for any time period deemed appropriate by the governing body. Money held in the account may not be considered as cash balance for the purpose of reducing mill levies.
(2) Money may be expended from the account for any purpose provided by law.

continued

(3) Money in the account must be invested as provided by law. Interest and income from the investment of the mine development reserve account must be credited to the account.

Renumber: subsequent sections

15. Page 16, line 23.
Following: "instruction."
Insert: "(1)"

16. Page 16, line 24.
Strike: "12"
Insert: "9"

17. Page 17, line 1.
Strike: "12"
Insert: "9"

18. Page 17.
Following: line 1
Insert: "(2) [Section 11] is intended to be codified as an integral part of Title 7, chapter 6, and the provisions of Title 7, chapter 6, apply to [section 11].

(3) [Section 12] is intended to be codified as an integral part of Title 20, chapter 5, and the provisions of Title 20, chapter 5, apply to [section 12]."

AND AS AMENDED DO PASS

Signed: _____
Bob Brown, Chairman

EXHIBIT NO. 12
DATE 3/9/89
BILL NO. SB 410

Amendments to Senate Bill No. 410
First Reading Copy

Requested by Senator Beck
For the Committee on Taxation

Prepared by Jeff Martin
March 6, 1989

1. Title, line 12.
Strike: "AND THE RESOURCE INDEMNITY TRUST TAX"

2. Title, line 14.
Following: ";"
Insert: "ESTABLISHING A MINE DEVELOPMENT RESERVE ACCOUNT FOR COUNTY GOVERNMENTS AND LOCAL SCHOOL DISTRICTS;"

3. Title, line 16.
Strike: "15-38-105 THROUGH 15-38-107,"

4. Page 2.
Following: line 16
Insert: "(5) "Receipts received" means the monetary payment or refined metal received by the mining company from the metal trader, smelter, roaster, or refinery, determined by multiplying the quantity of metal received by the metal trader, smelter, roaster, or refinery by the quoted price for the metal and then subtracting basic treatment and refinery charges, quantity deductions, price deductions, interest, and penalty metal, impurity, and moisture deductions as specified by contract between the mining company and the receiving metal trader, smelter, roaster, or refinery. Deductions are not allowed, either directly or indirectly as an offset to payments, for the cost of transportation from the mine or mill to the smelter, roaster, or refinery. Demurrage, storage, interest, or any other miscellaneous costs related to transporting the mineral product are considered transportation and are not deductible."

5. Page 2, line 22.
Following: "received"
Insert: ", as defined in 15-23-801,"

6. Page 4, line 11.
Strike: "1.65%"
Insert: "1.8%"

7. Page 6, lines 13 through 19.
Strike: subsection (4) in its entirety

8. Page 9, line 21.
Strike: "75%"
Insert: "70%"

9. Page 10, line 3.
Strike: "10%"
Insert: "15%"

10. Page 10, line 12 through page 14, line 7.
Strike: sections 9 through 11 in their entirety
Renumber: subsequent sections

11. Page 14, line 9.
Strike: "(1)"

12. Page 14, line 13 through 15.
Strike: subsection (2) in its entirety

13. Page 16.
Following: line 18
Insert: "NEW SECTION. **Section 11. Mine development reserve account.** (1) The governing body of a county receiving tax collections under 15-37-117(1)(d) may establish a mine development reserve account to be used to hold the collections. The governing body may hold money in the account for any time period deemed appropriate by the governing body. Money held in the account may not be considered as cash balance for the purpose of reducing mill levies.
(2) Money may be expended from the account for any purpose provided by law.
(3) Money in the account must be invested as provided by law. Interest and income from the investment of the mine development reserve account must be credited to the account.

NEW SECTION. **Section 12. Mine development reserve account.** (1) The governing body of a local school district receiving tax collections under 15-37-117(1)(d) may establish a mine development reserve account to be used to hold the collections. The governing body may hold money in the account for any time period deemed appropriate by the governing body. Money held in the account may not be considered as cash balance for the purpose of reducing mill levies.
(2) Money may be expended from the account for any purpose provided by law.
(3) Money in the account must be invested as provided by law. Interest and income from the investment of the mine development reserve account must be credited to the account.
Renumber: subsequent sections

14. Page 16, line 23.
Following: "**instruction.**"
Insert: "(1)"

15. Page 16, line 24.
Strike: "12"

EXH. 11
DATE 3/9/04
BILL NO. SB 41

Insert: "9"

16. Page 17, line 1.
Strike: "12"
Insert: "9"

17. Page 17.
Following: line 1
Insert: "(2) [Section 11] is intended to be codified as an integral part of Title 7, chapter 6, and the provisions of Title 7, chapter 6, apply to [section 11].
(3) [Section 12] is intended to be codified as an integral part of Title 20, chapter 9, and the provisions of Title 20, chapter 9, apply to [section 12]."

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Chairman Harrington, on March 30, 1989, at 9:00 a.m.

ROLL CALL

Members Present: All

Members Excused: None

Members Absent: None

Staff Present: Dave Bohyer, Legislative Council

Announcements/Discussion: Documents regarding tax impacts on schools were submitted to the committee by Nancy Keenan's office. (Exhibit 1).

HEARING ON SENATE BILL 410

Presentation and Opening Statement by Sponsor:

Senator Tom Beck, District 24, stated SB 410 clarifies the value of the gross proceeds tax on metal mines. Sen. Beck submitted amendments to the bill. (Exhibit 2). He stated the bill includes increasing the metal mines license tax from 1.5 to 1.8%, removing the metal mines from the resource indemnity trust tax to some extent by increasing the rate the industry pays to the metal mines tax to compensate for other losses of revenue, and placing the tax on receipts rather than gross proceeds. He said there is a redistribution plan for funds to go to the various districts.

Testifying Proponents and Who They Represent:

Gary Langley, Executive Director, Montana Mining Association
Dennis Burr, Montana Taxpayers Association
Don Peebles, Chief Executive, Butte-Silver Bow
James McCauley, Commissioner, Jefferson City
Mark Blair, ASARCO
Dave Fuller, Chairman, Lewis & Clark County Commission
John Dudis, Attorney, Black Pine Mine, Kalispell
Rep. Dave Brown, House District 62
Ward Shanahan, Attorney, Sweetwater Mine
John Fitzpatrick, Pegasus Corporation

Proponent Testimony:

Gary Langley stated his association represented the major producers of the state. He said the intent of SB 410 is to clarify the tax liability of the mining industry and would allow for predictability and consistency in this area. He said this was needed in order to assist the industry to more accurately predict their costs. He urged support of the bill.

Dennis Burr stated SB 410 is an attempt to establish a fair tax base for the mining industry. He said the rates have been adjusted to provide the same amount of revenue and this is a fair method of setting the tax base. He urged support of the bill.

Don Peebles stated it was important to have a strong, competitive industry. He said he was satisfied that the bill was revenue neutral without impact on schools and local governments. He urged support of the bill.

James McCauley stated the bill allows local governments more flexibility and supports the simplification of the tax system.

Mark Blair expressed support for the bill due to the tax simplification while still providing the necessary funds to local governments.

Dave Fuller stated he agreed with the previous proponents and also supported the simplification and fairness of the tax issue.

John Dudis spoke in support of the bill. (Exhibit 3).

Rep. Dave Brown concurred with the philosophy of the bill but was concerned about possible fiscal impacts. He asked the committee not to act upon the bill until he could determine the exact figures on the impact of close down accounts. He said it could be a 70% impact of funds and he considered this too high.

Ward Shanahan stated the bill has been changed a number of times to try to make it revenue neutral. He said it was not neutral according to the previous application of the taxes. He said his company was interested in the concept of the bill and would be willing to work on it.

John Fitzpatrick stated the close down accounts Rep. Brown referred to were established to provide assistance in the event of any mine discontinuing operations. He said this account is a wasted asset since it does not collect interest. Mr. Fitzpatrick stated, under this bill at a rate of 8%, the account will continue to receive $500,000.00 per year. He said the account is growing rapidly and will be $10,000,000.00 by 1991. He suggested the account should be protected by either allocating it to local governments for

investments or placing it in an interest bearing trust account. He stated SB 410 combines the RITT tax and the metal mines tax into a single entity with funds still allocated to the RITT fund and is really not a tax decrease for the industry. He stated Pegasus was in support of the bill and Sen. Beck's amendments.

Testifying Opponents and Who They Represent:

Jack Heyneman, Chairman, Stillwater Protective Association
Brent Quick, Northern Plains Resource Council
John Beaudig, Stillwater County Commissioner and City Planner
Rep. Vern Keller, House District 63

Opponent Testimony:

Jack Heyneman spoke in support of the bill. (Exhibit 4).

Brent Quick stated local counties do not receive their current allocation under SB 410. He said there would be $300,000.00 less available to local governments due to the tax changes in the bill. Mr. Quick submitted proposed amendments to the bill. (Exhibit 5). He thanked the committee for their time.

John Beaudig stated he did not object to the stated purpose of the bill but he objected to the county reallocations since the county would lose 14% of their current revenues under present law. He said the county of Stillwater would be happy to work with the industry on this bill. He submitted a letter from the Stillwater County Commissioners. (Exhibit 6).

Rep. Vern Keller stated he was concerned with the fiscal impact of the bill and the allocation of funds. He said, in the event of a mine close-down in Stillwater County, there would not be enough funds to cover the costs involved. He concurred with Rep. Brown on the need for further work on the bill.

Questions From Committee Members: Rep. Driscoll asked Rep. Brown about the hard rock mining trust and the possibility of the money being confiscated by the Legislature. Rep. Brown stated that was always a possibility but the funds are held in escrow for each county where the mine is located and it would be very difficult to justify using these funds. Rep. Driscoll then asked Mr. Shanahan about the revenue neutrality of the bill and stated this would be a tax cut for the industry since it reduces the mill levy. Mr. Shanahan replied revenue neutrality has different aspects. He said one is the taxpayer who does not want a tax increase and the other is the funding of local governments. He said neutrality should be viewed from the total effect, not one aspect. Rep. Driscoll asked if the bill was currently

revenue neutral and Mr. Shanahan replied he was not sure.

Rep. Ream asked Rep. Brown about the impact to local governments concerning "up front" income. Rep. Brown replied the "up front" income is dependent upon the mine production and is therefore somewhat precarious. He said the purpose of having close down accounts is to avoid the disastrous effects of a mine discontinuing operations.

Rep. Raney asked Mr. Fitzpatrick about the distribution of the funds under the bill. Mr. Fitzpatrick replied his industry had agreed that funds would go to the RITT and to environmental concerns. Rep. Raney then asked Mr. Fitzpatrick about the gross proceeds lawsuit against the state. Mr. Fitzpatrick answered the gross proceeds has to do with the value of the mineral product which is difficult to establish since the product is raw ore. He said the mines sell a partially completed product and the company based their tax on their sales while the DOR based the tax on the metal. He said this bill will clarify these issues.

Closing by Sponsor: Sen. Beck stated there was obvious disagreement on the fund allocation in the bill but not on the intent. He said the counties have the opportunity to place these funds in a trust themselves. Sen. Beck stated he would be willing to work with everyone on the bill to iron out any differences. He thanked the committee for a good hearing.

DISPOSITION OF SENATE BILL 410

Motion: None.

Discussion: None.

Amendments, Discussion, and Votes: None.

Recommendation and Vote: None. Action will be taken at a later date.

HEARING ON SENATE BILL 392

Presentation and Opening Statement by Sponsor:

Senator Bob Brown, District 62, stated the bill is an act to exempt from taxation certain property used in the production of movies and television commercials if the property is in the state of Montana for less than 180 days. He said if the property is located in the state for a longer period of time, it is subject to property tax until the end of the year. Sen. Brown stated that several years ago, a movie company made a movie in Glacier County. He said the county assessor decided their property was subject to the migratory personal property tax and the company was required to inventory all of their equipment, most of which was leased.

DAILY ROLL CALL

TAXATION COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date March 30, 1989

NAME	PRESENT	ABSENT	EXCUSED
Harrington, Dan, Chairman	✓		
Ream, Bob, Vice Chairman	✓		
Cohen, Ben	✓		
Driscoll, Jerry	✓		
Eliott, Jim	✓		
Koehnke, Francis	✓		
O'Keefe, Mark	✓		
Raney, Bob	✓		
Schye, Ted	✓		
Stang, Barry	✓		
Ellison, Orval	✓		
Giacometto, Leo	✓		
Gilbert, Bob	✓		
Good, Susan	✓		
Hanson, Marian	✓		
Hoffman, Robert	✓		
Patterson, John	✓		
Rehberg, Dennis	✓		

EXHIBIT 2
DATE 3/30/89
SB 410
Sen. Don Beck

Amendments to Senate Bill No. 410
Third Reading Copy

Requested by Senator Beck
For the Committee on Taxation

Prepared by Greg Petesch
March 28, 1989

1. Page 10, line 18.
Strike: "63%"
Insert: "61.5%"

2. Page 10, line 22.
Strike: "14%"
Insert: "15.5%"

3. Page 10, line 24.
Strike: "units of local government"
Insert: "county"

4. Page 10, line 25 through page 11, line 1.
Following: "year" on line 25
Strike: ", of which"
Insert: ". The governing body of the county may allocate a portion of the tax collections to a reserve account for the repayment of bonded indebtedness incurred by the county, elementary, or high school districts within the county as a result of the development and operation of a metal mine. The remaining balance, if any, must be allocated as follows"

5. Page 11, line 4.
Following: line 3
Strike: "district in which the mine is located"
Insert: "districts within the county that have been affected by the development and operation of a metal mine"

6. Page 11, lines 5 and 6.
Following: "school" on line 5
Strike: remainder of line 5 through "located" on line 6
Insert: "districts within the county that have been affected by the development and operation of a metal mine"

7. Page 11, lines 7 and 8.
Following: "the" on line 7
Strike: remainder of line 7 through "government" on line 8
Insert: "county"

EXHIBIT 3
DATE 3/30/89
HB 410
Sen. John Beck

SENATE BILL 410 - BEFORE HOUSE TAXATION COMMITTEE
9:00 a.m., March 30, 1989

My name is John Dudis. I am an attorney with the firm of Murphy, Robinson, Heckathorn & Phillips, P.C. Our firm represents Black Pine Mining Company, the owner of the Black Pine Mine located near Phillipsburg, MT. Black Pine Mine, a siver mine, commenced operations in 1975, and today has a very limited operation due to a lack of merchantable silver deposit.

The mine has no smelting facilities. The mine originally sold its ore to the Anaconda Company at Anaconda, MT. When that smelter was closed, ore was sold to ASARCO at East Helena, and to COMINCO, a company with a smelter located at Trail, British Columbia. Attempts were made to find other markets for the ore but none were financially feasible. All of Black Pine Mines' transactions have been at arms-length with the various smelters. The mining company had a distinct disadvantage in negotiating more favorable terms for the sale of its product because of the limited number of smelters available to the mine.

I am here to provide testimony in support of SB 410 as it relates to the definition of merchantable value. During the years that we have represented Black Pine Mining Company we have had several disputes with the Montana Department of Revenue concerning the definition of merchantable value and a clarification is in order. The definitions contained in SB410 are a continuation of past policy of the Montana DOR regarding interpretation of metal-liferous mine tax statutes.

The Montana Department of Revenue audited the Black Pine Mining Company's tax returns for the period of 1975 through 1980. As a result of that audit and conferences held with the Montana DOR, the mine reported income for the purposes of the metal mines taxes on the revenue received from the smelter in an arms-length transaction negotiated between a willing buyer and a willing seller. This is the statutory construction that has been given enforcement and implementation to the present statute by the Department of Revenue.

In 1986, the Montana Department of Revenue examined Black Pine Mining Company's tax returns for the years 1981-85. During this audit the Montana Department of Revenue unilaterally changed its interpretation of the metalliferous mine tax statutes. The Montana Department of Revenue is now attempting to tax all metal content that may exist (before smelting) regardless of whether the client received revenue for the content or not. Although no formal change in Montana statutes has been enacted by the elected representatives, the Montana DOR promulgated in November of 1988, rules that would support their new position regarding the definition of value for metalliferous mine tax purposes. These rules are effective for the years 1988 and forward.

Black Pine Mining Company believes that the proposed language of SB 410 merely clarifies the intent of the existing law as was concurred in by both the Montana Department of Revenue and Black Pine Mining Company in the audits of metal mines tax returns through 1980. This taxpayer does not believe that it was ever the intent of the Legislature to tax nonexistent revenues.

Black Pine Mining Company has contributed substantially to the State of Montana and local government by employment and taxes and hopes to continue doing so. The Montana Department of Revenue's move to a restrictive interpretation of the present statutory language will certainly inhibit the further development in Montana's mining industry, and this proposed legislation will clarify any doubt as to the interpretation of the gross value of metal mines tax law in the State of Montana.

Thank you.

JOHN B. DUDIS, JR.
Attorney for Black Pine Mining Company

EXHIBIT 4
DATE 3/30/89
SB 410

NORTHERN PLAINS RESOURCE COUNCIL

Field Office
Box 858
Helena, MT 59624
(406) 443-4965

Main Office
419 Stapleton Building
Billings, MT 59101
(406) 248-1154

Field Office
Box 886
Glendive, MT 59330
(406) 365-2525

Mr. Chairman and members of the committee;

My name is Jack Heyneman, Chairman of the Stillwater Protective Association, a local affiliate of the Northern Plains Resource Council. I am testifying on behalf of both SPA and NPRC in opposition to Senate Bill 410 as currently drafted.

Senate Bill 410 purportedly attempts to streamline the manner in which metals are taxed by the state. In fact this bill creates many more questions than it answers, and most significantly, would result in less money for counties impacted by mineral development. SPA opposes changes in current law that would result in less money for the Resource Indemnity Trust (RIT), and for the Hard Rock Trust Account (HRTA). Amendments could alleviate this.

SB 410 contains a new provision that will benefit counties. The portion of the Metalliferous Mines License Tax (MMLT) allocated directly to counties allows them more control over impact funds, and allows economic development to be funded before a mine shuts down.
but...

SPA members have serious concerns with possible changes in how the Hard Rock Trust Account is used. Our county entities and the Stillwater Mining Company have compiled an enviable record of cooperation. I believe this is because both parties have participated in the planning and allocation of funds. Both parties have ownership of the impact plan. Further, I believe there are instances when the company, because of their experience, was more aware of potential costs than the local governmental entities, and have offered to supplement the request. **They shared ownership of the plan. This bill as written potentially undermines this cooperation.**

Should the changes of SB 410, as currently drafted, go into effect, the Hard Rock Trust Account is severely diminished. This fund presently allocates MMLT revenues to sub-accounts for each county that has a mine paying taxes in it. It is specifically designated for alleviating financial burdens when mines cease operations or reduce employment by 50%, and promoting economic development.

Under SB 410, revenues going to counties will be less than allocated under current law. The fiscal note for SB 410 shows that in FY90, $1.87 million would go to the Hard Rock Trust Account under current law. SB 410 would give only $542,000 to

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the Trust, and $1.017 million directly to counties. This total, $1.56 million still deprives counties of over $300,000 per year. Additionally, the reduction in taxable value (because of the suggested changes in gross value) will cost counties at least another $29,000 in FY 90.

The direct money for counties could be a boost in providing revenues for a locally-controlled trust fund. But SB 410 falls short of ensuring an equitable distribution of these funds. As it now reads, impacted school districts surrounding a district with the mine will have no mechanism to acquire any of these funds. This can be alleviated by allowing property tax-base sharing as included in current hard rock impact plans.

NPRC would like to submit an amendment which will restore the Hard Rock Trust account and the Resource Indemnity Trust Tax to levels we would expect under present law. We cannot support the passage of this bill without these amendments.

We appreciate the opportunity to comment.

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PROPOSED AMENDMENTS TO SENATE BILL 410;
HOUSE TAXATION COMMITTEE, 3/30/89

Section 3. Page 5. Line 8.

DELETE: "1.8% of the increment"
ADD: "2.2% of the increment"

Section 8. Page 10.

Line 18. DELETE: "63%"; ADD: "55%."
Line 20. DELETE: "8%"; ADD: "22%."
Line 22. DELETE: "14%"; ADD: "13%."
Line 25. DELETE: "15%"; ADD: "10%."

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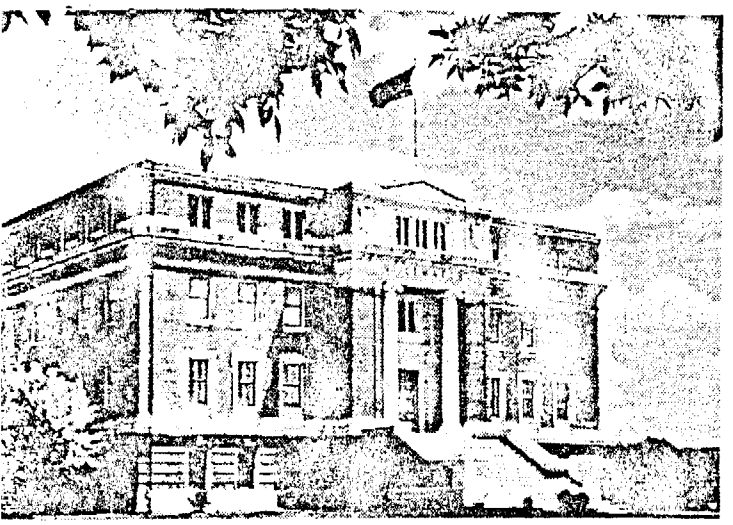

COUNTY OF STILLWATER

State Of Montana

Columbus, Montana

March 23, 1989

Representative Dan Harrington, Chairman
House Taxation Committee
State Capitol
Helena, Montana 59620

Re: Opposed to Senate Bill 410 - Recommended Amendments

Dear Representative Harrington and members of the House Taxation Committee:

We are opposed to Senate Bill 410 because it is not revenue neutral for local governments over time. The Montana Legislature established hard rock mining impact trust accounts in 1983. The reasons for the trust accounts were to stabalize mill levies, retire bonded indebtedness and fund economic development efforts in the event of a significant reduction in work force or mine closure. Therefore, the impacts from the boom and bust cycles in the mining industry could be minimized.

Senate Bill 410, as amended would allocate 8% of the metalliferous mines license tax to the trust accounts and 15% to local governments on an annual basis, for a total of 23%. This represents a 10% reduction in allocation to local governments from the current law. Even though the rate of taxation is being increased to 1.8%, this increase does not offset all of the losses. It would require an additional allocation of 6 to 7%, to either the impact trust account or local governments, to be revenue neutral for Stillwater County.

We request Senate Bill 410 be amended to be truly revenue neutral to all entities involved. This can be accomplished in one of three ways. Either increase the allocation to the impact trust account and/or local governments, the interest on the impact trust accounts be credited to those accounts, or a combination of the two.

We recommend the allocation to the hard rock mining impact trust accounts be increased from the proposed 8% to 11% and the interest from these accounts be credited to them. We are hereby requesting amendments to Section 8 of Senate

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Bill 410 to accomplish revenue neutrality for all entities affected by this legislation.

Sincerely,
Board of County Commissioners

Earl R. Adams, Chairman

Rick Young

Fred Weiler

cc: Senator Tom Beck
Stillwater Mining Company
Senator Doc McLane
Representative Vern Keller
Beaverhead County
Broadwater County
Fergus County
Granite County
Jefferson County
Lewis & Clark County
Lincoln County
Madison County
Phillips County
Butte-Silver Bow

VISITORS' REGISTER

HOUSE TAXATION COMMITTEE

BILL NO. SB 410 DATE March 30, 1989

SPONSOR Sen. Tom Beck

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
John Dudis	Black Dike	—	
Anne Black	218 Mtn View Billings		—
Tod Dorey	ASARCO	✓	
Ray Tilman	MRI	✓	
D.R. Engold	NOXON MT		
John Beardsley	Columbus MT		✓ Amend
[illegible]	Columbus Mt.		✓ amend
Mary A Sanders	MT Mining Assn	✓	
Dave Brown	HD #72 - Butte	✓ w/Amdts	
Vern Keller	HD 83 Stillwater		✓ amend
Mark Blair	ASARCO TROY MT	✓	
DAVE FULLER	HELENA	✓	
Jessica Burr	Clancy	—	
John Fitzpatrick	Regnos Gold Helena	✓	
Brent Quick	Northern Plains Resource Council		✓ amend

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Chairman Harrington, on April 7, 1989, at 9:30 a.m.

ROLL CALL

Members Present: All

Members Excused: None

Members Absent: None

Staff Present: Dave Bohyer, Legislative Council

Announcements/Discussion: None.

EXECUTIVE SESSION

DISPOSITION OF SENATE BILL 410 HEARD ON MARCH 30:

MOTION: DO PASS AS AMENDED by Rep. Ellison. Motion CARRIED by a unanimous voice vote.

DISPOSITION OF SENATE BILL 282 HEARD ON MARCH 14:

MOTION: DO PASS by Rep. Elliott. Rep. Driscoll moved the amendment.

DISCUSSION: Rep. Good asked how this bill interacted with HB 293. Rep. Cohen responded HB 293 is a dependent care credit and SB 282 was strictly for employers.

Dave Bohyer explained the amendment stating on page 1, starting at line 21, Subsection 2A will be amended to read "the amount of the credit allowed under Subsection 1 is 50% of the amount incurred by the employer for day care assistance actually provided to or on behalf of the employee or $1,250.00, whichever is less." He said the amendment clarifies the language of the bill.

Rep. Hanson asked about the fiscal impact. Rep. Gilbert stated $22,000.00 is to administer the program and the $2.5 million is the potential impact.

The motion to DO PASS on the amendments CARRIED by a unanimous voice vote.

Rep. Patterson stated this is a new program and we are not sure what this will cost. Rep. Giacometto stated this is an income

DAILY ROLL CALL

TAXATION COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date April 7, 1989

NAME Harrington, Dan, Chairman	PRESENT	ABSENT	EXCUSED
Ream, Bob, Vice Chairman	✓		
Cohen, Ben	✓		
Driscoll, Jerry	✓		
Eliott, Jim	✓		
Koehnke, Francis	✓		
O'Keefe, Mark	✓		
Raney, Bob	✓		
Schye, Ted	✓		
Stang, Barry	✓		
Ellison, Orval	✓		
Giacometto, Leo	✓		
Gilbert, Bob	✓		
Good, Susan	✓		
Hanson, Marian	✓		
Hoffman, Robert	✓		
Patterson, John	✓		
Rehberg, Dennis	✓		

STANDING COMMITTEE REPORT

Mr. Speaker: We, the committee on Taxation report that SENATE BILL 410 (third reading copy -- blue) be concurred in as amended .

Signed: _____
Dan Harrington, Chairman

[REP. DAVE BROWN WILL CARRY THIS BILL ON THE HOUSE FLOOR]

And, that such amendments read:

1. Title, lines 13 and 14.
Strike: "CHANGING" on line 13 through "MINES" on line 14

2. Title, lines 15 and 16.
Strike: "FROM" on line 15 through "PROVISIONS;" on line 16

3. Title, line 18.
Strike: "MINE DEVELOPMENT"
Insert: "COUNTY HARD-ROCK MINE TRUST RESERVE ACCOUNT AND METAL MINES TAX"
Following: "RESERVE"
Strike: "ACCOUNT"
Insert: "ACCOUNTS"

4. Title, line 19.
Following: "DISTRICTS;"
Insert: "TRANSFERRING, AFTER FISCAL YEAR 1990 AND AT THE END OF EACH SUBSEQUENT FISCAL YEAR, FUNDS REMAINING IN THE HARD-ROCK MINING IMPACT TRUST ACCOUNT TO THE COUNTY HARD-ROCK MINE TRUST RESERVE ACCOUNT; STATUTORILY APPROPRIATING FUNDS;"

5. Title, line 21.
Following: "~~15-38-107,~~"
Strike: "AND"
Following: "15-38-202,"
Insert: "17-7-502, 90-6-305, AND 90-6-306,"
Following: "MCA;"
Insert: "REPEALING SECTIONS 90-6-321 AND 90-6-322, MCA;"

6. Page 4, line 20.
Following: "tax."
Insert: "(1)"

7. Page 5, line 3.
Following: "preceding"
Strike: ","
Insert: ".
(2) Concentrate shipped to a smelter, mill, or reduction work is taxed"

8. Page 5, line 8.
Strike: "1.8%"
Insert: "1.81%"

9. Page 5.
Following: line 12
Insert: "(3) Gold, silver, or any platinum-group metal that is dore, bullion, or matte and that is shipped to a refinery is taxed at the following rates:

Gross Value of Product	Rate of Tax (percentage of gross value)
first $250,000	0%
more than $250,000	1.6% of the increment"

10. Page 10, line 18.
Strike: "63%"
Insert: "58%"

11. Page 10, line 20.
Strike: "8%"
Insert: "1.5%"

12. Page 10, line 22.
Strike: "14%"
Insert: "15.5%"

13. Page 10, line 24.
Strike: "units of local government"
Insert: "county"

14. Page 10, line 25.
Strike: "15%"
Insert: "25%"

Following: "year,"
Strike: "of"

15. Page 11, line 1.
Strike: "which:"
Insert: "to be allocated by the county commissioners as follows:
(i) not less than 40% to the county hard-rock mine trust reserve account established in [section 9]; and
(ii) all money not allocated to the account pursuant to subsection (1)(d)(i) to be further allocated as follows:"

16. Page 11, line 2.
Strike: "(i)"
Insert: "(A)"
Following: "county"
Insert: "for planning or economic development activities"
Renumber: subsequent subsections

17. Page 11, line 4.
Strike: "district in which the mine is located"
Insert: "districts within the county that have been affected by the development or operation of the metal mine"

18. Page 11, lines 5 and 6.
Following: "school" on line 5
Strike: "district in which the mine is located"
Insert: "districts within the county that have been affected by the development or operation of the metal mine"

19. Page 11, lines 7 and 8.
Following: "the" on line 7
Strike: "local units of government"
Insert: "county"

20. Page 11, line 9.
Following: "(1)(d)."
Insert: "The allocation to the county described by subsection (1)(d) is a statutory appropriation pursuant to 17-7-502."

21. Page 11.
Following: line 9
Insert: "NEW SECTION. Section 9. County hard-rock mine trust reserve account -- expenditure restrictions. (1) The governing body of a county receiving an allocation under 15-37-117(1)(d) shall establish a county hard-rock mine trust reserve account.
(2) Money received by a county pursuant to 15-37-117 or [section 10] must remain in the account and may not be appropriated by the governing body until:

(a) a mining operation has permanently ceased all mining related activity; or

(b) the number of persons employed full-time in mining activities by the mining operation is less than one-half of the average number of persons employed full-time in mining activities by the mining operation during the immediately preceding 5-year period.

(3) If the circumstances described in subsections (2)(a) or (2)(b) occur, the governing body of the county must allocate at least one-third of the funds proportionally to affected high school districts and elementary school districts in the county, and may use the remaining funds in the account to:

(a) pay for outstanding capital project bonds or other expenses incurred prior to the end of mining activity or the reduction in the mining work force described in subsection (2)(b);

(b) decrease property tax mill levies that are directly caused by the cessation or reduction of mining activity;

(c) promote diversification and development of the economic base within the jurisdiction of a local government unit;

(d) attract new industry to the impact area;

(e) provide cash incentives for expanding the employment base of the area impacted by the changes in mining activity described in subsection (2); or

(f) provide grants or loans to other local government jurisdictions within the county to assist with impacts caused by the changes in mining activity described in subsection (2).

(4) Except as provided in subsection (3)(b), money held in the account may not be considered as cash balance for the purpose of reducing mill levies.

(5) Money in the reserve account must be invested as provided by law. Interest and income from the investment of funds in the account must be credited to the account.

NEW SECTION. Section 10. Fund transfer. (1) On July 1, 1990, and on each July 1 thereafter, all funds remaining in the hard-rock mining impact trust account established in 90-6-304(2) after June 30 immediately preceding must be transferred to the county for which the funds have been held in deposit. The funds so transferred must be deposited in the county hard-rock mine trust reserve account established in [section 9].

(2) The transfer of funds required by this section is a statutory appropriation pursuant to 17-7-502."

Renumber: subsequent sections

22. Page 17.
Following: line 19
Insert: "Section 13. Section 17-7-502, MCA, is amended to read:
"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424; 17-5-804; 19-8-504; 19-9-702; 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606; 19-12-301; 19-13-604; 20-4-109; 20-6-406; 20-8-111; 23-5-610; 23-5-1027; 33-31-212; 33-31-401; 37-51-501; 39-71-2504; 53-6-150; 53-24-206; 67-3-205; 75-1-1101; 75-7-305; 76-12-123; 80-2-103; 80-2-228; 82-11-136; 90-3-301; 90-3-302; 90-3-412; 90-4-215; [section 10]; 90-9-306; 90-15-103; section 13, House Bill No. 861, Laws of 1985; and section 1, Chapter 454, Laws of 1987.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for such payments. (In subsection (3): pursuant to sec. 15, Ch. 607, L. 1987, the inclusion of 15-65-121 terminates June 30, 1989; pursuant to sec. 10, Ch. 664, L. 1987, the inclusion of 39-71-2504 terminates June 30, 1991; and pursuant to sec. 6, Ch. 454, L. 1987, the inclusion of sec. 1, Ch. 454, L. 1987, terminates July 1, 1988.)"

Section 14. Section 90-6-305, MCA, is amended to read:
"90-6-305. Hard-rock mining impact board -- general powers.
(1) The board may:
(a) retain professional staff, consultants, and advisors notwithstanding the provisions of 2-15-121;
(b) adopt rules governing its proceedings, determinations, and administration of this part;
(c) award grants to local government units subject to 90-6-306;
~~(d) award grants or loans to local government units from money paid into the hard rock mining impact trust account subject to the provisions of 90-6-321 and 90-6-322;~~
~~(e) make payments to local government units from money paid to the hard rock mining impact account as provided in 90-6-307;~~
~~(f)~~ (d) make determinations as provided in 90-6-307, ~~90-6-321, and 90-6-322~~; and
~~(g)~~ (e) accept grants and other funds to be used in carrying out this part.
(2) The provisions of the Montana Administrative Procedure Act apply to the proceedings and determinations of the board."

Section 15. Section 90-6-306, MCA, is amended to read:
"90-6-306. Basis for awarding grants. Grants~~, including these from the hard rock mining impact trust account,~~ shall be awarded to local government units on the basis of:
(1) need;
(2) severity of impact from mineral development;
(3) availability of funds; and
(4) extent of local effort in meeting its needs.""
Renumber: subsequent sections

23. Page 17, line 20 and lines 22 and 23, and page 18, lines 7 and 8, 9, 12, and 21 and 22.
Strike: "MINE DEVELOPMENT"
Insert: "metal mines tax" or "Metal mines tax" as appropriate

24. Page 19, lines 3 and 5.
Strike: "9"
Insert: "11"

25. Page 19, line 6.
Strike: "[Section 11] IS"
Insert: "[Sections 9 and 16] are"

26. Page 19, line 8.
Strike: "[SECTION 11]"
Insert: "[sections 9 and 16]"

27. Page 19, lines 9 and 11.
Strike: "12"
Insert: "17"

28. Page 19.
Following: line 11
Insert: "(4) [Section 10] is intended to be codified as an integral part of Title 90, chapter 6, part 3, and the provisions of Title 90, chapter 6, part 3, apply to [section 10].

NEW SECTION. Section 20. Repealer. Sections 90-6-321 and 90-6-322, MCA, are repealed."
Renumber: subsequent sections